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May 2, 2011

Leslie A. Kirby-Miles
Associate Regional Counsel
U.S. EPA Region 5
77 W. Jackson Blvd. C-14J
Chicago, IL 60604-3590

Re: Portage Creek Time Critical Removal Action at the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site

Dear Ms. Kirby-Miles:

On April 18, 2011, Ms. Linda Nachowicz of the U.S. Environmental Protection Agency sent a letter to six potentially responsible parties ("PRPs"), including Weyerhaeuser Company, in which EPA encourages the PRPs to conduct a time critical removal action within the Portage Creek Area of the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site ("Site"). I am writing in response to Ms. Nachowicz's letter.

As I believe you know, Weyerhaeuser owned the former Plainwell Mill located at approximately River Mile 55.2 of the Site from 1961 until 1970, utilized the 12th Street Landfill located at approximately River Mile 53.4 of the Site from 1961 until 1970, and recently purchased the 12th Street Landfill. Despite its relatively minor involvement with the small mill in Plainwell and less than 10 acre landfill in nearby Otsego township, Weyerhaeuser has undertaken a very substantial effort to address conditions associated with those two facilities. In 2005, Judge Bell approved a Consent Decree between the United States and Weyerhaeuser under which Weyerhaeuser, among other things: 1) is performing the Remedial Investigation/Feasibility Study of the former Plainwell Mill and will implement the Record of Decision for the mill; 2) is implementing the Record of Decision for the 12th Street Landfill Operable Unit 4; 3) completed the removal of contaminated banks and sediments adjacent to the mill and landfill; 4) has reimbursed and is reimbursing EPA for its oversight costs; and 5) paid over \$6.3 Million in reimbursement of EPA's past response costs and to fund the Kalamazoo River Special Account within the EPA Hazardous Substance Superfund.

In contrast to its involvement with the former Plainwell Mill and the 12th Street Landfill, Weyerhaeuser respectfully submits that it has no responsibility or legal obligation to address contamination at or near the Portage Creek Area of the Site. The Portage Creek confluence with the Kalamazoo River is located approximately 14 miles upstream of the mill and approximately 16 miles upstream of the 12th Street Landfill. To the extent that hazardous substances have been released in the Portage Creek Area of the Site, those hazardous substances are completely separate from and unrelated to any contamination from facilities 14 and 16 miles downstream that

may be attributable to Weyerhaeuser. As a result, Weyerhaeuser's potential liability for contamination at the Site is divisible from any liability for contamination in the Portage Creek Area. See *Burlington Northern & Santa Fe Ry. Co. v. United States*, 129 S. Ct. 1870, 1881 (2009) ("[A]ppportionment is proper when 'there is a reasonable basis for determining the contribution of each cause to a single harm.'"). Stated another way, Weyerhaeuser should not be held responsible for the contamination in the Portage Creek Area merely because Portage Creek is administratively grouped with other parts of the river. *Appleton Papers Inc. v. George A. Whiting Paper Co.*, -- F. Supp. 2d --, 2001 WL 806411 (E.D. Wis. March 1, 2001). Weyerhaeuser's potential liability at the Site is divisible, rather than joint and several, and does not include liability for remediating the Portage Creek Area.

While Weyerhaeuser declines EPA's invitation to conduct the time critical removal action at the Portage Creek Area, Weyerhaeuser is willing to undertake other action that would assist EPA in the development of a successful remedy at the Site. We have reviewed the design and documentation reports for the recent Time Critical Removal Actions in the Plainwell Impoundment and the Plainwell No. 2 Dam area. Weyerhaeuser recognizes that bank stabilization to control erosion of PCB containing paper residuals from the river banks will be a major component of the Site remedy along the river banks upstream of Lake Allegan. Based upon these reports and the natural resource concerns raised by the site trustees, we also understand the limited effectiveness of certain habitat friendly bank stabilization techniques (referred to as soft shorelines), which are more susceptible to hydrologic erosion than rip rap or stone banks (referred to as hard banks). Thus we have concluded that additional options for bank stabilization allowing integration of habitat enhancing conditions along with rip rap or similar "hard banks" would provide more cost-effective and ecologically acceptable alternatives for consideration in the downstream SRI/FS process. We are interested in developing the information needed to evaluate those bank stabilization options.

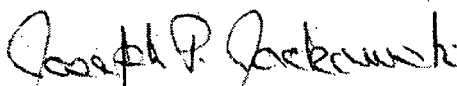
Thus, Weyerhaeuser proposes to perform a bank stabilization options evaluation in coordination with EPA, the Michigan Department of Natural Resources and Environment, any interested PRPs, and possibly others as appropriate, to evaluate different bank stabilization approaches that could effectively withstand river erosion with limited reconfiguration of the river channel and still provide a low maintenance and habitat friendly shoreline. Under this proposal, Weyerhaeuser would perform pilot testing to evaluate three or four different slope stabilization options, possibly in the Otsego or Otsego City Impoundment areas. The goals would be to evaluate and refine bank stabilization designs that will be acceptable to the agencies, minimize short and long term adverse impacts on the river, and provide a sound technical basis for advancing the RI/FS and Record of Decision for the Site. The multiple component bank stabilization designs are currently being developed. We expect that these may incorporate a range of components including: biodegradable erosion control blankets, low and high tensile monofilament Turf Reinforcing Matrix (TRM) integrated with bare root or plugs of native plants, pre-planted coir log toes, composite revetments and live stakes with bare rooted native plants. We would like to meet with EPA at your earliest convenience to present additional bank stabilization study designs and discuss the project in more detail.

If, for some reason, EPA believes that the bank stabilization analysis we propose is not an appropriate next step, Weyerhaeuser would be willing to consider the possibility of a different project to advance the RI/FS and the Record of Decision for the Site. For example, EPA may

determine it appropriate instead to better understand, develop, and then communicate the effectiveness of potential remedies at the Site in reducing PCB concentrations in fish tissue to background or non advisory levels. This alternate project might include a literature review on uptake mechanisms of PCB into different fish, followed by data collection including sampling coincident locations for different species of fish, sediment, upper and lower water column and possibly air deposition. This information would facilitate refinement of the science to a site-specific conceptual site model that identifies the manageable exposure pathways that can be addressed with selected remedial alternatives. As with the bank stabilization option analysis, we would propose to complete this work in coordination with EPA, MDNRE, any interested PRP, and others as appropriate.

We welcome the opportunity to meet with EPA to discuss our proposed project activities and look forward to hearing from you.

Sincerely,



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